

**MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY
January 28, 2010**

Hilton Garden Inn - Spectrum
Boise, Idaho

This meeting of the board is held to conduct regular Board business.

Chairman Nicole Chopski, Pharm D called the meeting to order at 8:00 a.m. In attendance were Berk Fraser, R.Ph.; Kitty Gurnsey, Holly Henggeler, Pharm D; Rich de Blaquiére, Pharm D; Mark Johnston, R.Ph; Jenifer Marcus, DAG; Jan Atkinson, Senior Compliance Officer; Lisa Culley, Compliance Officer; Fred Collings, Chief Investigator; Glenn Luke, Financial Specialist, Principal; and Ellen Mitchell.

Dr. Chopski introduced Dr. de Blaquiére from Sandpoint, Idaho. Dr. de Blaquiére was appointed by Governor Otter to fulfill the remainder of Mr. Sheffler's term.

Dr. Henggeler motioned to approve the minutes of the December 10, 2009 meeting with corrections. Ms. Gurnsey seconded, motion carried unanimously.

Mr. Fraser motioned to approve the minutes of the January 20, 2010 conference call with minor corrections. Ms. Gurnsey seconded, motion carried unanimously.

Dr. Robert Wechsler representing the Epilepsy Foundation of Idaho presented the Idaho Epilepsy Patient Protection Act. The legislation addresses drug product selection of epilepsy drugs and the harm that can be caused by dispensing different branded medication once a patient has been stabilized on a certain brand. Dr. Wechsler is introducing this legislation during the current legislative session and is seeking the Board's support. The Board believed that current rules allow the prescriber to address said drug product selection upon writing a prescription, and the Board was not in favor of one sided legislation that placed the mandate solely upon the pharmacist. Dr. Chopski instructed Mr. Johnston to work on language with Dr. Wechsler.

Kris Ellis, lobbyist for the Naturopathic Medicine Practice Act and Roy Gerin, representing the Naturopathic Medicine Association presented the Board with draft language regarding Naturopathic Physicians. Legislation licensing naturopaths and granting them prescriptive authority originally passed the legislature in 2006; however rules relating to the legislation have not passed the legislature. Fourteen licenses have been issued and there is no functioning Board. A lawsuit has been filed against the State, the Bureau of Occupational Licenses and the Board of Naturopaths by those that have applied for licensure. This legislation is a joint effort between the two naturopathic

associations. The legislation allows for licensure and limited prescriptive authority for graduates of accredited universities of naturopathic medicine, as well as licensed chiropractors with an additional 72 hours of education, but naturopaths who are not graduates of schools of chiropractic or naturopathic medicine are not eligible for licensure. Dr. Henggeler specifically opposes chiropractors obtaining prescriptive authority with only 72 hours of additional education. A tiered formulary for different levels of education was discussed. Ms. Ellis would like to return with re-drafted language addressing the Board's concerns in March.

Melissa Moody, DAG, presented the matter of Dennis Beach. Mr. Fraser recused himself due to his personal and professional relationship with Mr. Beach. Sam Hoagland appeared as legal counsel on behalf of Mr. Beach, who was absent. Dr. Chopski asks for unanimous consent to accept the Board staff recommendation to not take action on Mr. Beach's failed drug test at this time, as Mr. Beach's license and controlled substance registration are suspended for ten years. Unanimous consent granted.

Marty Durand, legislative counsel for Planned Parenthood of Idaho, addressed the Board in response to Mr. David Ripley's (Idaho Chooses Life) Freedom of Conscience for Health Care Professionals legislation. Mr. Ripley had presented said legislation to the Board on 12/10/10. Ms. Durand asks the Board to oppose this legislation. Planned Parenthood believes this legislation is unnecessary and poorly written. After discussion the Board will remain neutral on this issue by unanimous consent, as the Board believes this is a pharmacist's rights issue and not a public safety issue.

Melissa Moody, DAG, presented the case regarding Kent Jensen, R.Ph. Mr. Jensen appeared via telephone. Mr. Jensen's attorney is in France and unable to attend. Mr. Jensen indicated he was acting in the best interest of his patients and though his bookkeeping was not acceptable, there was no diversion. Mr. Fraser motioned to accept the stipulation and order as written. Ms. Gurnsey seconded, motion carried unanimously.

Ms. Moody presented the case regarding Roger Wood, R.Ph. Mr. Wood, who recently voluntarily surrendered his license and controlled substance registration, is requesting a restricted license so that he may engage in volunteer work at the health department. Dr. Chopski encouraged Mr. Wood to contact Southworth and Associates. Dr. Chopski asked for unanimous consent to not take action on Mr. Wood's request. Unanimous consent granted.

Mike Dickens, R.Ph., ISHP President, presented a 2 page recommendation regarding the institutional pharmacy rules 252-260. Dr. Chopski expressed concern over mail order IV medication being compounded by a nurse in the patient's home. Mr. Dickens

explains that the committee that he has assembled to address institutional rules as part of the rewriting of the rule book will return with more detailed suggestions.

Mr. Johnston presented the calendar and discussed the upcoming NABP Annual Meeting. Mr. Johnston and Dr. Henggeler will attend, Dr. de Blaquiére is uncertain at this time. Mr. Johnston will attend the APHA annual meeting as well.

Mr. Johnston indicated all the Board rules have been approved by the House Health and Welfare Committee, except for the rules concerning the Idaho Legend Drug Donation Act, which are to be heard at 1:30pm today.

Mr. Johnston and Lynette Berggren presented the progress on the rule book rewrite. Chapter #1 is near completion and nearly ready for distribution for comment. The Board discussed several issues within chapter #2, including the following: The Board wishes to eliminate the restriction on sharing PMP user ID numbers and passwords. Dr. de Blaquiére wishes to discuss the topic of inducements at a future meeting. Separate rules for pharmacists filling and prescribers writing invalid prescriptions are needed, as per the prescriber's licensing Board's rules concerning prescribing for oneself or one's family member. It is decided that pharmacists can fill their own prescriptions. A rule mandating pharmacist prescribing of non-prescription controlled substances (certain CVs) in order for the dispensing data to be submitted to the PMP is discussed through open public comment. Many drug product selection rules are struck, as a reference to the "orange book" is adopted. A rule requiring electronic record storage and retrieval and the elimination of several rules pertaining to required hard copy reports is discussed. All rogue references to discipline are being removed. The Board does not wish to allow the addition of refills to a filled prescription, keeping rules that require a new prescription in said situation. The Board wishes to see language that expands the labeling requirements for expiration dates. The standard retention period for all records is decided to be 3 years.

Mr. Johnston leaves to present to the House Health and Welfare committee.

Holly Ann Bagley, pharmacy technician applicant, addressed the Board via telephone requesting reconsideration of her application. Chad Jungert, R.Ph. attends via telephone in support of Ms. Bagley. Ms. Gurnsey motioned to approve Ms. Bagley's request and issue her a pharmacy technician registration. Motion died for lack of a second. Action of the Board staff stands.

Mr. Luke reviewed the financial status of the Board.

Mr. Johnston returns from the legislature.

The Board reviewed a letter from Heather Wolcott, Pharm D, regarding physician dispensing and/or operating 'mini-pharmacies' out of their offices. After discussion Dr. Chopski directed Mr. Johnston to address Dr. Wolcott's concerns, starting with the Board of Medicine.

A discussion regarding the consequences of 2009 rule changes on assisted living facilities resulted in the Board directing Mr. Johnston to draft language to address the issue.

The Board's inspectors requested clarification regarding 2009 changes to institutional rules, including rule 3257.02: centralized Prescription Processing For Immediate Need. Mr. Johnston provided most answers through reading the Board's December 2009 Newsletter.

Mr. Collings leads a discussion of hcg being sold illegally in Idaho. Ms. Marcus to draft "cease and desist" letters to those found selling this product. Mr. Johnston will develop communication methods, informing all parties involved that hcg is a controlled substance in Idaho.

Mr. Collings addressed the Board with his concerns regarding CRNAs that are practicing in Idaho without a controlled substance registration and a DEA certificate. A hospital may issue a suffix to the hospital's DEA number, if the CRNA administers within the presence of a physician, thus the CRNA would not be required to obtain their own DEA and controlled substance registration; however, many hospitals and CRNAs are not utilizing a properly executed hospital DEA suffix or the CRNA is administering in the absence of a physician.

Ms. Gurnsey left the meeting at 4:20 p.m.

Dr. Henggeler motioned to adjourn, Mr. Fraser seconded. Motion carried unanimously. Meeting adjourned 5:00 p.m.